

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NEIL GOMEZ, *et al.*,

Plaintiffs,

vs.

HENDERSON JUSTICE COURT, *et al.*,

Defendants.

Case No. 2:18-cv-00120-JAD-VCF

**REPORT AND RECOMMENDATION FOR
DISMISSAL WITH PREJUDICE**

On January 29, 2018, the Court granted Plaintiffs Neil and Christina Gomez's application to proceed *in forma pauperis* and dismissed their complaint without prejudice. (ECF No. 4). The Court found that the complaint improperly sought to vacate a state court conviction through a 42 U.S.C. § 1983 action. (*Id.* at 2-3).

The Court gave Plaintiffs until March 30, 2018 to file an amended complaint and warned that "[f]ailure to timely file an amended complaint may result in a recommendation for dismissal with prejudice." (ECF No. 7 at 1). Plaintiffs have failed to file an amended complaint or an objection to the Court's order. For the reasons discussed in the Court's January 29, 2018 Order (ECF No. 4), Plaintiffs' complaint should be dismissed with prejudice.

Accordingly, and for good cause shown,

IT IS RECOMMENDED that this action be DISMISSED WITH PREJUDICE and Judgment entered, accordingly.

NOTICE

Under Local Rule IB 3-2, any objection to this Report and Recommendation must be in writing and filed with the Clerk of the Court within 14 days. The Supreme Court has held that the courts of appeal

1 may determine that an appeal has been waived due to the failure to file objections within the specified
2 time. (*See Thomas v. Arn*, 474 U.S. 140, 142 (1985)). This circuit has also held that (1) failure to file
3 objections within the specified time and (2) failure to properly address and brief the objectionable issues
4 waives the right to appeal the District Court's order and/or appeal factual issues from the order of the
5 District Court. (*See Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch.*
6 *Dist.*, 708 F.2d 452, 454 (9th Cir. 1983)).

7 Pursuant to LSR 2-2, the Plaintiff must immediately file written notification with the court of any
8 change of address. The notification must include proof of service upon each opposing party or the party's
9 attorney. **Failure to comply with this Rule may result in dismissal of the action.** (*See* LSR 2-2).

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11 IT IS SO RECOMMENDED.

12 DATED this 5th day of April, 2018.

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15 CAM FERENBACH
16 UNITED STATES MAGISTRATE JUDGE
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